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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,245	06/15/2001	Philip E. Holmes	36-1440	7054

23117 7590 08/22/2005

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EXAMINER

TIV, BACKHEAN

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/868,245

Applicant(s)

HOLMES, PHILIP E.

Examiner

Backhean Tiv

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

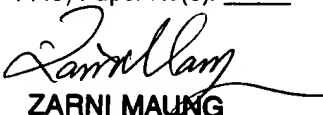
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 28-50.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


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SUPERVISORY PATENT EXAMINER

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Continuation of 11. does NOT place the application in condition for allowance because Applicant's arguments are not persuasive. The applicant states that he/she does not understand why the arguments filed on December 22, 2004 were not considered since those arguments pertain to currently-pending claims 28-50. On page 11, of the Remarks filed on December 22, 2004, the applicant states, "The rejection of claims 1-27 under 35 U.S.C. 103 as allegedly being made "obvious" based on Melen '646 in view of Green '084 is respectfully traversed." This statement is clear that the applicant made arguments as per claims 1-27 and not claims 28-50, therefore the examiner did not consider arguments as per claims 1-27 because claims 1-27 were cancelled.

The applicant also argues, as per claim 28 and 42, that the combination of Melen in view of Green fails to teach or suggest "monitoring changes in the state of logical connections for providing content to a user between the user's computer system and a content provider's computer system, wherein at least one logical connection is defined by a client network layer address, a client transport layer address, a server network layer address and /or server transport layer address, and creating charging data when at least one of the monitored logical connections changes its state by being generated and/or terminated", on page 10 of the Remarks.

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

The examiner considers "a logical connection" as any connection between a server and client.

The examiner disagrees, Melen, page 10-11, teaches that a there is an establishment of the communication of a computer to a DHCP server(detecting in at least on logical connection of said client/server relationship) and whether the user is connected to the service provider with a certain address (at least one event causing a change in state of at least one logical connection).

Melen, page 10, last paragraph, page 11, first paragraph teaches that a user selects a certain address for use(recording data created in response to the at least one event detected) and based on the address selected the user is charged(generating charging data on the basis of the recorded data).

Melen, page 10-12, teaches the server keeps track of which IP address is being used to connect to the server for services(monitors changes in the state of logical connections between the user's computer system and computer system arranged to provide the user with content).

Melen, page 10-12, teaches the server keeps track of which IP address is being used to connect to the server for services and charging the user based on the IP address and further teaches when the user connects to a different IP address(creating

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the data when the use of the communication link causes at least one of the said monitored logical connections to change its state by being generated and/ or terminated).

Green, Abstract, col.9, line 54-col.10, line 8, Fig.2, teaches the use of TCP/IP connections(logical connections defined by a client network layer address, a client transport layer address, a server network layer address and a server transport layer address).

The applicant further argues, on pg.11-12 of the Remarks, that Melen and Green does not teach "billing a user for actual use of a logical connection regardless of whether he/she already had access rights or not (for example, a user who already has access rights could include a user with has permanent "always on " connection such as a broadband connection)". This feature is not claimed in either claims 28 or claims 42 See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).



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